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5  
6 **UNITED STATES DISTRICT COURT**  
**FOR THE**  
7 **DISTRICT OF NEW JERSEY**

8 CLAUDE CASSAGNE, )

9 Plaintiff )

10 v. )

11 BUREAU OF COLLECTION RECOVERY, )  
12 INC., )

Defendant )

**Case No.:**

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

**(Unlawful Debt Collection Practices)**

13  
14 **COMPLAINT**

15 CLAUDE CASSAGNE (“Plaintiff”), by his attorneys, KIMMEL & SILVERMAN, P.C.,  
16 alleges the following against BUREAU OF COLLECTION RECOVERY, INC. (“Defendant”):  
17

18 **INTRODUCTION**

19 1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15  
20 U.S.C. § 1692 *et seq.* (“FDCPA”), which prohibits debt collectors from engaging in abusive,  
21 deceptive, and unfair practices.  
22

23 **JURISDICTION AND VENUE**

24 2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states  
25 that such actions may be brought and heard before “any appropriate United States district court

1 without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original  
2 jurisdiction of all civil actions arising under the laws of the United States.

3 3. Defendant conducts business in the State of New Jersey and therefore, personal  
4 jurisdiction is established.

5 4. Venue is proper pursuant to 28 U.S.C. § 1391(b) (2).

6 5. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.  
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8  
9 **PARTIES**

10 6. Plaintiff is a natural person residing in Plainsboro, New Jersey, 08536.

11 7. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

12 8. Defendant is a national debt collection company with corporate headquarters  
13 located at 7575 Corporate Way, Eden Prairie, Minnesota, 55344.

14 9. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6),  
15 and repeatedly contacted Plaintiff in an attempt to collect a debt.

16 10. Defendant acted through its agents, employees, officers, members, directors,  
17 heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.  
18

19 **PRELIMINARY STATEMENT**

20 11. The Fair Debt Collection Practices Act (“FDCPA”) is a comprehensive statute,  
21 which prohibits a catalog of activities in connection with the collection of debts by third parties.  
22 See 15 U.S.C. § 1692 *et seq.* The FDCPA imposes civil liability on any person or entity that  
23 violates its provisions, and establishes general standards of debt collector conduct, defines abuse,  
24 and provides for specific consumer rights. 15 U.S.C. § 1692k. The operative provisions of the  
25

1 FDCPA declare certain rights to be provided to or claimed by debtors, forbid deceitful and  
2 misleading practices, prohibit harassing and abusive tactics, and proscribe unfair or  
3 unconscionable conduct, both generally and in a specific list of disapproved practices.

4       12. In particular, the FDCPA broadly enumerates several practices considered  
5 contrary to its stated purpose, and forbids debt collectors from taking such action. The  
6 substantive heart of the FDCPA lies in three broad prohibitions. First, a “debt collector may not  
7 engage in any conduct the natural consequence of which is to harass, oppress, or abuse any  
8 person in connection with the collection of a debt.” 15 U.S.C. § 1692d. Second, a “debt  
9 collector may not use any false, deceptive, or misleading representation or means in connection  
10 with the collection of any debt.” 15 U.S.C. § 1692e. And third, a “debt collector may not use  
11 unfair or unconscionable means to collect or attempt to collect any debt.” 15 U.S.C. § 1692f.  
12 The FDCPA is designed to protect consumers from unscrupulous collectors, whether or not there  
13 exists a valid debt, broadly prohibits unfair or unconscionable collection methods, conduct which  
14 harasses, oppresses or abuses any debtor, and any false, deceptive or misleading statements in  
15 connection with the collection of a debt.

16  
17       13. In enacting the FDCPA, the United States Congress found that “[t]here is  
18 abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many  
19 debt collectors,” which “contribute to the number of personal bankruptcies, to marital instability,  
20 to the loss of jobs, and to invasions of individual privacy.” 15 U.S.C. § 1692a. Congress  
21 additionally found existing laws and procedures for redressing debt collection injuries to be  
22 inadequate to protect consumers. 15 U.S.C. § 1692b.

23  
24       14. Congress enacted the FDCPA to regulate the collection of consumer debts by debt  
25 collectors. The express purposes of the FDCPA are to “eliminate abusive debt collection

1 practices by debt collectors, to insure that debt collectors who refrain from using abusive debt  
2 collection practices are not competitively disadvantaged, and to promote consistent State action  
3 to protect consumers against debt collection abuses.” 15 U.S.C. § 1692e.  
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6 **FACTUAL ALLEGATIONS**

7 15. At all relevant times, Defendant was attempting to collect an alleged consumer  
8 debt from Plaintiff.

9 16. The alleged debts at issue arose out of transactions, which were primarily for  
10 personal, family, or household purposes.

11 17. On or around June 15, 2011, at 8:21 a.m., Defendant contacted Plaintiff via his  
12 home telephone in an attempt to collect an alleged debt.

13 18. During the June 15, 2011 telephone call, Defendant’s representative failed to  
14 disclose to Plaintiff the name of the caller, the name of the debt collection company on whose  
15 behalf the call was placed, that Defendant was a debt collector, and the amount of the debt.

16 19. Plaintiff was confused by who Defendant was and indicated Defendant’s calls  
17 were unwanted, advising Defendant to cease further telephone calls to him.

18 20. Plaintiff reiterated this request during subsequent conversations with Defendant.

19 21. Despite Plaintiff’s indication that Defendant’s calls were unwanted, and specific  
20 request that calls cease, Defendant continued to contact Plaintiff via telephone.  
21

22 22. Plaintiff received telephone calls from the following numbers: (202) 607-2744;  
23 (202) 607-2732; and (202)607-2732; the undersigned has confirmed these numbers belong to  
24 Defendant.

25 23. Defendant’s efforts to contact Plaintiff were made with the intent to harass, abuse

1 and annoy Plaintiff.

### 2 3 CONSTRUCTION OF APPLICABLE LAW

4 24. The FDCPA is a strict liability statute. Taylor v. Perrin, Landry, deLaunay &  
5 Durand, 103 F.3d 1232 (5th Cir. 1997). “Because the Act imposes strict liability, a consumer  
6 need not show intentional conduct by the debt collector to be entitled to damages.” Russell v.  
7 Equifax A.R.S., 74 F. 3d 30 (2d Cir. 1996); see also Gearing v. Check Brokerage Corp., 233  
8 F.3d 469 (7th Cir. 2000) (holding unintentional misrepresentation of debt collector’s legal status  
9 violated FDCPA); Clomon v. Jackson, 988 F. 2d 1314 (2d Cir. 1993).

10  
11 25. The FDCPA is a remedial statute, and therefore must be construed liberally in  
12 favor of the debtor. Sprinkle v. SB&C Ltd., 472 F. Supp. 2d 1235 (W.D. Wash. 2006). The  
13 remedial nature of the FDCPA requires that courts interpret it liberally. Clark v. Capital Credit  
14 & Collection Services, Inc., 460 F. 3d 1162 (9th Cir. 2006). “Because the FDCPA, like the  
15 Truth in Lending Act (TILA) 15 U.S.C §1601 *et seq.*, is a remedial statute, it should be  
16 construed liberally in favor of the consumer.” Johnson v. Riddle, 305 F. 3d 1107 (10th Cir.  
17 2002).

18 26. The FDCPA is to be interpreted in accordance with the “least sophisticated”  
19 consumer standard. See Jeter v. Credit Bureau, Inc., 760 F.2d 1168 (11th Cir. 1985); Graziano  
20 v. Harrison, 950 F. 2d 107 (3<sup>rd</sup> Cir. 1991); Swanson v. Southern Oregon Credit Service, Inc.,  
21 869 F.2d 1222 (9th Cir. 1988). The FDCPA was not “made for the protection of experts, but for  
22 the public - that vast multitude which includes the ignorant, the unthinking, and the credulous,  
23 and the fact that a false statement may be obviously false to those who are trained and  
24 experienced does not change its character, nor take away its power to deceive others less  
25

1 experienced.” Id. The least sophisticated consumer standard serves a dual purpose in that it  
2 ensures protection of all consumers, even naive and trusting, against deceptive collection  
3 practices, and protects collectors against liability for bizarre or idiosyncratic interpretations of  
4 collection notices. Clomon, 988 F. 2d at 1318.

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6  
7 **COUNT I**  
8 **DEFENDANT VIOLATED THE**  
9 **FAIR DEBT COLLECTION PRACTICES ACT**

10 27. In its actions to collect a disputed debt, Defendant violated the FDCPA in one or  
11 more of the following ways:

- 12 a. Defendant violated of the FDCPA generally;
- 13 b. Defendant violated § 1692c(c) of the FDCPA by refusing to cease  
14 communications with Plaintiff, despite Plaintiff’s explicit request not to  
15 contact him again;
- 16 c. Defendant violated § 1692d of the FDCPA by harassing Plaintiff in  
17 connection with the collection of an alleged debt;
- 18 d. Defendant violated § 1602d(5) of the FDCPA by placing repeated telephone  
19 calls to Plaintiff with the intent to harass, annoy and/or abuse Plaintiff;
- 20 e. Defendant violated § 1602d(6) of the FDCPA by placing telephone calls to  
21 Plaintiff’s home telephone without disclosure of the caller’s identity;
- 22 f. Defendant violated § 1692e of the FDCPA by using false, deceptive, or  
23 misleading representations or means in connection with the collection of a  
24 debt;
- 25 g. Defendant violated § 1692e(10) of the FDCPA by using false representations

1 or deceptive means to collect or attempt to collect a debt;

2 h. Defendant violated § 1692f of the FDCPA by using unfair and  
3 unconscionable means with Plaintiff to collect or attempt to collect a debt;

4 i. Defendant acted in an otherwise deceptive, unfair and unconscionable manner  
5 and failed to comply with the FDCPA.  
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7  
8 WHEREFORE, Plaintiff, CLAUDE CASSAGNE, respectfully pray for a judgment as  
9 follows:

10 a. All actual compensatory damages suffered pursuant to 15 U.S.C. §  
11 1692k(a)(1);

12 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to  
13 15 U.S.C. § 1692k(a)(2)(A);

14 c. All reasonable attorneys' fees, witness fees, court costs and other litigation  
15 costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and

16 d. Any other relief deemed appropriate by this Honorable Court.  
17

18 **DEMAND FOR JURY TRIAL**

19 PLEASE TAKE NOTICE that Plaintiff, CLAUDE CASSAGNE, demands a jury trial in  
20 this case.  
21

22 **CERTIFICATION PURSUANT TO L.CIV.R.11.2**

23 I hereby certify pursuant to Local Civil Rule 11.2 that this matter in controversy is not  
24 subject to any other action pending in any court, arbitration or administrative proceeding.  
25

1 RESPECTFULLY SUBMITTED,

2 DATED: 07/18/11

KIMMEL & SILVERMAN, P.C..

3  
4 By: /s/ Amy L. Bennecoff

5 Amy L. Bennecoff

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